

## CHAPTER 4

### STUDENT ATTENDANCE, RESIDENCY, AND TUITION

#### Attendance Requirement

The parent, guardian, or legal or actual custodian of a child who is of compulsory attendance age shall cause the child to attend some public school, an accredited nonpublic school, or competent private instruction in accordance with the provisions of chapter 299A, during a school year, as defined under section 279.10. The board of directors of a public school district shall set the number of days of required attendance for the schools under its control. The board of directors of a public school district may, by resolution, require attendance for the entire time when the schools are in session in any school year and adopt a policy or rules relating to the reasons considered to be valid or acceptable excuses for absence from school **(299.1)**.

Section 299.1 shall not apply to any child:

1. Who has completed the requirements for graduation in an accredited school or has obtained a high school equivalency diploma under chapter 259A [GED].
2. Who is excused for sufficient reason by any court of record or judge.
3. While attending religious services or receiving religious instructions.
4. Who is attending a private college preparatory school accredited or probationally accredited under the provisions of subsection 256.11(13).
5. Who has been excused under section 299.22 [deaf or blind who are physically or mentally unable to attend school].
6. Who is exempted under section 299.24 [religious exemption] **(299.2)**.

A child who has reached the age of six and is under sixteen years of age by September 15 is of compulsory attendance age. However, if a child enrolled in a school district or accredited nonpublic school reaches the age of sixteen on or after September 15, the child remains of compulsory age until the end of the regular school calendar **(299.1A)**.

The parent, guardian, or legal or actual custodian of a child who is of compulsory attendance age, who is physically or mentally unable to attend school, or whose presence in school would be injurious to the health of other pupils, shall furnish proofs by certificate under sections 256B.6 and 256B.7 as to the physical or mental condition of the child **(299.5)**.

Any child of compulsory attendance age who fails to attend school as provided in chapter 299, or as required by the school board's attendance policy, or who fails to attend competent private instruction under chapter 299A, without reasonable excuse for the absence, shall be deemed to be a truant. A finding that a child is truant, however, shall not by itself mean that the child is a child in need of assistance within the meaning of chapter 232 and shall not be the sole basis for a child in need of assistance petition **(299.8)**.

The board of directors of a public school district shall prescribe reasonable rules for the punishment of truants **(299.9)**.

The board of each school district may appoint a truancy officer. The board of each school district, which does not appoint a truancy officer for the district, shall designate a suitable person to collect information on the numbers of children in the district who are truant. The board may appoint a member of the police force, marshal, teacher, school official, or other suitable person to serve as the district truancy officer **(299.10)**.

All school officers and employees shall promptly report to the secretary of the school corporation any violations of the truancy law of which they have knowledge, and the secretary shall inform the president of the board of directors who shall, if necessary, call a meeting of the board to take such action thereon as the facts justify **(299.15)**.

If a child is truant as defined in section 299.8, school officers shall attempt to find the cause for the child's absence and use every means available to the school to assure that the child does attend. For a child who has completed educational requirement through the sixth grade, the means may include but are not limited to the use of an attendance cooperation process which substantially conforms with the provisions of section 299.12. If the parent, guardian, or legal or actual custodian, or child refuses to accept the school's attempt to assure the child's attendance or the school's attempt to assure the child's attendance is otherwise unsuccessful, the truancy officer shall refer the matter to the county attorney for mediation or prosecution **(299.5A)**.

If a parent, guardian, or legal or actual custodian of a child who is truant, has made reasonable efforts to comply with the provisions of sections 299.1 through 299.5, but is unable to cause the child to attend school, the parent, guardian, or

legal or actual custodian may file an affidavit listing the reasonable efforts made by the parent, guardian, or legal or actual custodian to cause the child's attendance and the parent, guardian, or legal or actual custodian shall not be criminally liable for the child's nonattendance **(299.6)**.

All such certificates, reports, and proofs shall be filed and preserved in the office of the secretary of the school corporation as a part of the records of the office, and the secretary shall furnish certified copies thereof to any person requesting the same **(299.7)**.

School officers shall ascertain the number of children who are of compulsory attendance age, in their respective districts, the number of those children who are truant or who have accumulated fifteen unexcused absences during a three-year period, and so far as possible the cause of the failure to attend **(299.16)**.

Children who are of compulsory attendance age and who are so deaf or blind or have such severe disabilities so as to be unable to obtain an education in the public or accredited nonpublic schools shall be sent to the appropriate state-operated school, or shall receive appropriate special education under chapter 256B, unless exempted, and any person having such a children under the person's control or custody shall see that the child attends the state-operated school or special education program during the scholastic year **(299.18)**.

Attendance at the state-operated school [school for the deaf or Braille and sight saving school] may be excused when the superintendent of the state-operated school certifies that an interdisciplinary staffing team has determined, pursuant to the requirements of chapter 256B, that the child is efficiently taught for the scholastic year in an accredited nonpublic or other school devoted to the instruction, by a private tutor, in the public schools, or is shown to be physically or mentally unable to attend school under section 299.5 **(299.22)**.

The board of directors of each public school district shall prescribe the minimum educational program and an attendance policy which shall require each child to attend school for at least 148 days, to be met by attendance for at least 37 days each school quarter, for the schools under their jurisdictions. The minimum educational program shall be the curriculum set forth in subsection 280.3(3) and section 256.11, except as otherwise provided by law. The board of directors of a public school district shall not allow discrimination in any educational program on the basis of race, color, creed, sex, marital status or place of national origin. The board of directors of each public school district shall establish and maintain attendance centers based upon the needs of the school age pupils enrolled in the school district. Kindergarten programs shall and prekindergarten programs may be provided. In addition, the board of directors may include in the educational program of any school such additional courses, subjects, or activities which it deems fit the needs of the pupils **(280.3)**.

The board of directors shall determine the number of schools to be taught, divide the corporation into such wards or other divisions for school purposes as may be proper, determine the particular school which each child shall attend, and designate the period each school shall be held beyond the time required by law **(279.11)**.

A board does not have the authority to arbitrarily require pupils to attend school on Saturday instead of Monday **(1910 Op. Att'y Gen. 105 (#9-11-23))**.

### **Admission and Exclusion of Students**

Persons between five and twenty-one years of age are of school age **(282.1)**. The child shall be at least five and less than twenty-one years of age on September fifteenth of the current school year.

The board may exclude from school children under the age of six years when in its judgment such children are not sufficiently mature to be benefited by regular instruction, or any child who is found to be physically or mentally unable to attend school under section 299.5, or whose presence in school has been found to be injurious to the health of other pupils, or is efficiently taught for the scholastic year at a state institution. However, the board shall provide special education programs and services under chapters 256B, 257, and 273 for all children requiring special education **(282.3(1))**.

The conditions of admission to public school for work in the school year immediately preceding the first grade and in the first grade shall be as follows:

- A child under the age of six years on the fifteenth of September of the current school year shall not be admitted to a public school unless the board of directors of the school has adopted and put into effect courses of study for the school year immediately preceding the first grade, approved by the department of education and has employed a practitioner or practitioners for this work with standards of training approved by the board of educational examiners.

- No child shall be admitted to school work for the year immediately preceding the first grade unless the child is five years of age on or before the fifteenth of September of the current school year.
- No child shall be admitted to the first grade unless the child is six years of age on or before the fifteenth of September of the current school year; except that a child under six years of age who has been admitted to school work for the year immediately preceding the first grade under conditions approved by the department of education, or who as demonstrated the possession of sufficient ability to profit by first-grade work on the basis of tests or other means of evaluation recommended or approved by the department of education, may be admitted to first grade at any time before December 31.
- Nothing herein provided shall prohibit a school board from requiring the attainment of a greater age than the age requirements herein set forth **(282.3)**.

The Board has no discretion to admit children to kindergarten unless the child has attained the age of five on or before September fifteenth of the particular school year **(OAG #79-7-3)**.

Married persons of school age are entitled to attend school **(OAG #26-10-6)**.

In **Dean v. Armstrong** the legality of closing school and designating children to a consolidated school district was upheld by the Supreme Court.

The board may, by a majority vote, expel any student from school for a violation of the regulations or rules established by the board, or when the presence of the student is detrimental to the best interests of the school. The board may confer upon any teacher, principal, or superintendent the power temporarily to suspend a student, notice of the suspension being at once given in writing to the president of the board **(282.4(1))**. A student who commits an assault, as defined under section 708.1, against a school employee in a school building, on school grounds, or at a school-sponsored function shall be suspended for a time to be determined by the principal. Notice of the suspension shall be immediately sent to the president of the board. By special meeting or at the next regularly scheduled board meeting, the board shall review the suspension and decide whether to hold a disciplinary hearing to determine whether or not to order further sanctions against the student, which may include expelling the student. In making its decision, the board shall consider the best interests of the school district, which shall include what is best to protect and ensure the safety of the school employees and students from the student committing the assault. A student shall not be suspended or expelled pursuant to this section if the suspension or expulsion would violate the federal Individuals with Disabilities Education Act (IDEA) **(282.4(2))**. Notwithstanding section 282.6 [nonresident tuition], if a student has been expelled or suspended from school and has not met the conditions of the expulsion or suspension, the student shall not be permitted to enroll in a school district until the board of directors of the school district approve, by a majority vote, the enrollment of the student **(282.4(3))**.

When a student is suspended by a teacher, principal, or superintendent, pursuant to section 282.4, the student may be readmitted by the teacher, principal, or superintendent when the conditions of the suspension have been met, but when expelled by the board the student may be readmitted only by the board or in the manner prescribed by the board **(282.5)**.

Notwithstanding sections 275.55A [dissolution of district], 256F.4 [charter schools], and 282.18 [open enrollment], or any other provision to the contrary, prior to knowingly enrolling an individual who is required to register as a sex offender under chapter 692A, but who is otherwise eligible to enroll in a public school, the board of directors of a school district shall determine the educational placement of the individual. Upon receipt of notice that a student who is enrolled in the district is required to register as a sex offender under chapter 692A, the board shall determine the educational placement of the student. The tentative agenda for the meeting of the board of directors at which the board will consider such enrollment or educational placement shall specifically state that the board is considering the enrollment or educational placement of an individual who is required to register as a sex offender under chapter 692A. If the individual is denied enrollment in a school district under this section, the school district of resident shall provide the individual with educational services in an alternative setting. Notwithstanding section 692A.13, or any other provision of law to the contrary, the county sheriff shall provide to the boards of directors of the school districts located within the county the name of any individual under the age of 21 who is required to register as a sex offender under chapter 692A **(282.9)**.

## Definitions

### Minimum School Calendar and Day of Instruction

Each board shall adopt a school calendar that identifies specific days for student instruction, staff development and in-service time, and time for parent-teacher conferences. The length of the school calendar does not dictate the length of

contract or days of employment for instructional and noninstructional staff. The school calendar may be operated any time during the school year of July 1 to June 30 as defined by Iowa Code section 279.10. A minimum of 180 days of the school calendar, for school districts beginning no sooner than a day during the calendar week in which the first day of September falls [but no later than the first Monday in December], shall be used for student instruction. However, if the first day of September falls on a Sunday, school may begin any day during the calendar week preceding September 1. These 180 days shall meet the definitions of "day of school" in IAC subrule 281--12.1(8), "minimum school day" in IAC subrule 281--12.1(9), and "day of attendance" in IAC subrule 281--12.1(10). (Exception: A school or school district may, by board policy, excuse graduating seniors up to five days of instruction after school district requirements for graduation have been met.) If additional days are added to the regular school calendar because of inclement weather, a graduating senior who has met the school district's requirements for graduation may be excused from attendance during the extended school calendar. A school district may begin its school calendar earlier for other educational purposes involving instructional and noninstructional staff (**279.10(1), IAC 281--12.1(7)**).

## **Day of School**

A day of school is a day during which the school or school district is in session and students are under the guidance and instruction of the instructional professional staff. School shall be considered in session during parent-teacher conferences as well as during activities such as field trips if pupils are engaged in school programs or activities under the guidance and direction of the instructional professional staff. All grade levels of the school or school district must be operated and available for attendance by all students. An exception is if either the elementary or secondary grades are closed and provided that this time missed is made up at some other point during the school calendar so as to meet the minimum of 180 days of instruction for all grade levels 1 through 12. If a classroom or attendance center is closed for emergency health or safety reasons but the remainder of the school district is in operation, the day may be counted as a day of school (**IAC 281--12.1(8)**).

## **Minimum School Day**

A school day shall consist of a minimum of 5 ½ hours of instructional time for all grades 1 through 12. The minimum hours shall be exclusive of the lunch period. Passing time between classes as well as time spent on parent-teacher conferences may be counted as a part of the 5 ½-hour requirement. The school district may record a day of school with less than the minimum instructional hours if emergency health or safety factors require the late arrival or early dismissal of students on a specific day; or if the total hours of instructional time for all grades 1 through 12 in any five consecutive school days equals a minimum of 27 ½ hours, even though any one day of school is less than the minimum instructional hours because of staff development provided for the instructional professional staff or because parent-teacher conferences have been scheduled beyond the regular school day. Furthermore if the total hours of instructional time for the first four consecutive days equal at least 27 ½ hours because parent-teacher conferences are held beyond the regular school day, a school district may record zero hours of instructional time on the fifth consecutive school day as a minimum school day (**256.7(19), IAC 281--12.1(9)**).

## **Day of Attendance**

A day of attendance shall be a day during which students were present and under the guidance and instruction of the instructional professional staff. When staff development designated by the board occurs outside the time required for a "minimum school day," students shall be counted in attendance (**IAC 281--12.1(10)**).

As another exception to subrule 12.1(10) above and for calculation of average daily attendance and average daily membership for federal funding purposes, a pupil shall not be counted in attendance during school calendar days designated by the board for staff development or for parent-teacher conferences unless students are actually present and under the guidance and instruction of the instructional professional staff for the time required for a "minimum school day." Accordingly, that day shall not be counted as a day in session if that day does not qualify as a day of attendance for these calculations.

## **Reports**

It is a duty of the director of the department of education to prepare forms and procedures necessary to be used by AEA boards, district boards, school officials, principals, teachers, and other employees, and to insure uniformity, accuracy, and efficiency in keeping records in both pupil and cost accounting, the execution of contracts, and the submission of reports, and notify the board or school authorities when a report has not been filed in the manner or on the dates prescribed by law or by rule that the school will not be accredited until the report has been properly filed (**256.9(18)**).

Each board shall require its administrative staff to establish and maintain a system of student records. This system shall include for each student a permanent office record and a cumulative record. Evidence of attendance is maintained as a part of the permanent office record (**IAC 281--12.3(4)**).

Each teacher shall keep a daily register which shall correctly exhibit the name or number of the school, the district and county in which it is located, the day of the week, month, year, and the name, age, and attendance of each scholar, and the branches taught, and when scholars reside in different districts, separate registers shall be kept for each district, and a certified copy of the register shall, immediately at the close of the school, be filed by the teacher in the office of the secretary of the board (**294.4**).

The teacher shall file with the school superintendent and the director of the department of education such reports and in such manner as may be required (**294.5**). Student attendance and enrollment records are provided by the schools/school district through the BEDS and Project EASIER transmittal.

## **Reports from Accredited Nonpublic Schools**

Within ten (10) days from receipt of notice from the secretary of the school corporation within which an accredited nonpublic school is conducted, the principal of the accredited nonpublic school shall, once during each school year, and at any time when requested in individual cases, furnish to such secretary of the public school district within which the accredited nonpublic school is located, a certificate and report in duplicate on forms provided by the public school district of the names and ages of each pupil of the accredited nonpublic school who is of compulsory attendance age and the grade level of each pupil during the preceding year and from the time of the last preceding report to the time at which a report is required. In addition, the report shall identify all students of compulsory attendance age who were truant as defined by law or school policy and the number of days of truancy for the period covered by the report, and children who dropped out, withdrew from enrollment, or transferred to another Iowa school and the date their attendance ceased at the accredited nonpublic school. The secretary shall retain one of the reports and file the other with the secretary of the AEA (**299.3**).

## **Reports as to Private Instruction**

The parent, guardian, or legal custodian of a child who is of compulsory attendance age who places the child under competent private instruction under either section 299A.2 [competent private instruction by licensed practitioners] or 299A.3 [private instruction by nonlicensed person], not in an accredited school or home school assistance program operated by a public or accredited nonpublic school, shall furnish a report in duplicate on forms provided by the public school district, to the district by the earliest starting date specified in subsection 279.10(1). The secretary shall retain and file one copy and forward the other copy to the district's AEA. The report shall state the name and age of the child, the period of time during which the child has been or will be under competent private instruction for the year, an outline of the course of study, texts used, and the name and address of the instructor. The parent, guardian, or legal custodian of the child, who is placing the child under competent private instruction for the first time, shall also provide the district with evidence that the child has had the immunizations required under section 139A.8, and, if the child is elementary school age, a blood lead test in accordance with section 135.105D. The term "outline of course of study" shall include subjects covered, lesson plans, and time spent on the areas of study (**299.4(1)**).

A home school assistance program operated by a school district or accredited nonpublic school shall furnish a report on forms provided by the department. The report shall, at a minimum, state the name and age of the child and the period of time during the school year in which the child has been or will be under competent private instruction by the home school assistance program (**299.4(2)**).

All such certificates, reports, and proofs shall be filed and preserved in the office of the secretary of the school corporation as a part of the records of the office, and the secretary shall furnish certified copies thereof to any person requesting the same (**299.7**).

## **Residency**

"Resident" means a child who is physically present in a district, whose residence has not been established in another district by operation of law, and who meets any of the following conditions:

1. Is in the district for the purpose of making a home and not solely for school purposes.
2. Meets the definitional requirements of the term "homeless individual" under 42 U.S.C. section 11302 (a) and (c).
3. Lives in a juvenile detention center, foster care facility, or residential facility in the district (**282.1**).

For purpose of section 282.6, "resident" means a person who is physically present in a district, whose residence has not been established in another district by operation of law, and who meets any of the following conditions:

1. Is in the district for the purpose of making a home and not solely for school purposes.
2. Meets the definitional requirements of the term "homeless individual" under 42 U.S.C. section 11302(a) and (c).
3. Lives in a residential correctional facility in the district **(282.6)**.

The Iowa Supreme Court stated: "Ordinarily, the legal residence of a minor is the same as that of the parents, but a minor may have a residence for school purposes other than that of the parents. The test of residence which will confer school privileges is not the same as the test for taxation or for the exercise of the right of suffrage." The court construed "residence" to mean the place, abode, or dwelling of the person, and this opinion is quite carefully followed in determining pupil residence for school purposes (**Mt. Hope School District v. Hendrickson, 197 Iowa 191,193 (1924)**).

"In the acquisition of a school domicile two factors concur - actual resident and intention." If a pupil leaves home with the intention of living independently and making a home where the pupil works, the pupil is entitled to all the privileges of a resident, including free schooling, but all surrounding facts must be considered to determine whether or not residence was established only for school purposes (**OAG #37-2-19(L); 1958 Op. Att'y Gen. 198 (#57-3-6)**).

The place where the occupant mainly and substantially performs those acts and offices which characterize a home, such as sleeping, sitting, eating and receiving visitors, is determined as the residence. If it is impossible to determine in which school district the occupant performs these acts and offices, then the occupant must elect one for the purposes of taxation and school attendance, and that election would be binding upon the statutory authorities in those matters (**OAG #46-9-5(L)**).

When a taxpayer lives in a home in one district and other buildings are in another district, the taxpayer's children would attend the district in which the home is located (**OAG #26-2-25, OAG #46-9-5**).

Residence for school purposes is not the same as legal domicile. A temporary residence, if not taken for the primary purpose of obtaining free schooling, may be sufficient for school privileges. For instance, children residing in mobile home parks, by reason of employment of parents, are entitled to tuition-free schooling in the school district where the mobile home park is located (**OAG #55-9-7(L)**).

Residence for school purposes is determined by intention of the parties and is broader than resident for taxation or suffrage (**OAG #27-10-20**).

A child cannot be expelled because of non-residence until a court has determined actual residence (**OAG #28-11-20**).

## **Enrolled Student**

An enrolled student is a person that has officially registered with the school district and taking part in the educational program (**IAC 281--12.2**).

Pupils in a regular curriculum attending all their classes in the district in which they reside, taught by teachers employed by that district, and having administrators employed by that district, are assigned a weighting of one (**257.11(1)**).

Note that enrollment for budget purposes includes all students enrolled and taking part in the educational program on October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, who meet one of the classifications in section 257.6. Also note that some classifications must be counted as full-time-equivalents (FTE). Although districts may calculate additional or supplementary weighting for certain categories of students under other sections of the Code, no student may be counted as enrolled more than a total of 1.0 (FTE) under section 257.6.

## **Actual Enrollment for Budget Purposes**

Actual enrollment is determined annually on October 1, or the first Monday in October if October 1 falls on a Saturday or Sunday, and includes all of the following:

- 1) Resident pupils who were enrolled in public schools within the district in grades kindergarten through twelve and including prekindergarten pupils enrolled in special education programs. Actual enrollment includes prekindergarten special education program students (**OAG #80-4-6**).

- 2) Full-time equivalent resident pupils of high school age for which the district pays tuition to attend an Iowa community college.
- 3) Shared-time and part-time pupils of school age enrolled in public schools within the district, irrespective of the districts in which the pupils reside, in the proportion that the time for which they are enrolled or receive instruction for the school year is to the time that full-time pupils carrying a normal course schedule, at the same grade level, in the same school district, for the same school year, are enrolled and receive instruction. Tuition charges to the parent or guardian of a shared-time or part-time nonresident pupil shall be reduced by the amount of any increased state aid by the counting of the pupil. *[Note that the resident district, if it is not the one providing the instruction for these shared-time and part-time students, would not count these students in basic enrollment nor pay tuition for these students unless served pursuant to an IEP in a public school program. Also note that the requirement on how to calculate shared time FTE is identical to the requirement for calculating maximum tuition for the part-time attendance of students so it would result in no tuition billed to parents.]*
- 4) Eleventh or twelfth grade nonresident Iowa pupils who were residents of the district during the preceding school year and are enrolled in the district until the pupils graduate. Tuition for those pupils shall not be charged by the district in which the pupils are enrolled and the requirements of section 282.18 [Open Enrollment] do not apply. *[As an exception, students served pursuant to an IEP would be counted by the resident district who would pay tuition to the former district of residence where the student is continuing his/her education under this junior-senior rule (OAG #88-8-3(L)).]*
- 5) Resident pupils receiving competent private instruction from a licensed practitioner provided through a public school district pursuant to chapter 299A shall be counted as three-tenths of one pupil (0.3).
- 6) Resident pupils receiving competent private instruction under dual enrollment pursuant to chapter 299A shall be counted as one-tenth of one pupil (0.1).
- 7) A student attending an accredited nonpublic school or receiving competent private instruction under chapter 299A, who is participating in a program under chapter 261E [senior year plus] shall be counted as a shared-time student in the school district in which the nonpublic school of attendance is located for state foundation aid purposes **(257.6(1))**.

If a parent, guardian, or legal custodian of a child who is receiving competent private instruction under chapter 299A or a child over compulsory age who is receiving private instruction submits a request, the child shall also be registered in a public school for dual enrollment purposes. If the child is enrolled in a public school district for dual enrollment purposes, the child shall be permitted to participate in any academic activities in the district and shall also be permitted to participate on the same basis as public school children in any extracurricular activities available to children in the children's grade or group, and the parent, guardian, or legal custodian shall not be required to pay the costs of any annual evaluation under this chapter. If the child is enrolled for dual enrollment purposes, the child shall be included in the public school's basic enrollment under section 257.6. A pupil who is participating only in extracurricular activities shall be counted under section 257.6(1), paragraph "a" subparagraph (6). A pupil enrolled in grades 9 through 12 under section 299A.8 shall be counted in the same manner as a shared-time pupil under section 257.6(1), paragraph "a" subparagraph (3) **(299A.8)**.

A parent may not use dual enrollment to enroll a child in all courses except one. Districts may set their own policy to limit the number of courses **(D.o.E. App. Dec. 44)**.

A child under dual enrollment must receive at least  $\frac{1}{4}$  of the child's instruction by way of competent private instruction and no more than  $\frac{3}{4}$  by way of the district's academic programs **(IAC 281-31.6(2))**.

Competent private instruction may include, but is not limited to, a home school assistance program (HSAP) which provides instruction or instructional supervision offered through an accredited nonpublic school or public school district by a teacher, who is employed by the accredited nonpublic school or public school district, who assists and supervises a parent, guardian, or legal custodian in providing instruction to a child. If competent private instruction is provided through a public school district, the child shall be enrolled and included in the basic enrollment of the school district as provided in section 257.6 **(299A.2)**. The legislature defined the home school assistance program (HSAP) as a program that provides instruction or instructional supervision by teachers employed by the district to parents, guardians, or legal custodians who are providing instruction to their children or wards in the district **(Laws of the 74th GA, 1992 Session (chapter 1136), section 13)**.

A home school assistance program is not dual enrollment, but the parent, guardian, or legal or actual custodian of a child enrolled in a home school assistance program may request dual enrollment in addition to enrollment in a home school assistance program **(IAC 281—31.5(5))**.

For purposes of chapter 299 and 299A, private instruction means instruction using a plan and a course of study in a setting other than a public or organized accredited nonpublic school **(299A.1)**.

The parent, guardian, or legal custodian of a child of compulsory attendance age who places the child under private instruction shall provide, unless otherwise exempted, competent private instruction in accordance with chapter 299A **(299A.1)**.

A parent, guardian, or legal custodian of a child of compulsory attendance age who places the child under private instruction which is not competent private instruction, or otherwise fails to comply with the requirements of this chapter, is subject to the provisions of sections 299.1 through 299.4 and the penalties provided in section 299.6 [compulsory attendance] **(299A.1)**.

Competent private instruction means private instruction provided on a daily basis for at least 148 days during a school year, to be met by attendance for at least 37 days each school quarter, by or under the supervision of a licensed practitioner in the manner provided under section 299A.2 [licensed practitioner], or other person under section 299A.3 [nonlicensed person], which results in the student making adequate progress **(299A.1)**.

If a licensed practitioner provides competent instruction to a child of compulsory attendance age, the practitioner shall possess a valid license or certificate which has been issued by the state board of educational examiners under chapter 272 and which is appropriate to the ages and grade levels of the children to be taught **(299A.2)**.

A parent, guardian, or legal custodian of a child of compulsory attendance age providing competent private instruction to the child shall meet all of the following requirements:

1. Complete and send, in a timely manner, the report required under section 299.4 [report of private instruction] to the school district of residence of the child.
2. Ensure that the child under the parent's, guardian's, or legal custodian's instruction is evaluated annually to determine whether the child is making adequate progress, as defined in section 299A.6.
3. Ensure that the results of the child's annual evaluation are reported to the school district of residence of the child and to the Department of Education by a date not later than June 30 of each year in which the child is under private instruction **(299A.3)**.

Revenues received by a school district attributed to a school district's weighted enrollment pursuant to this subparagraph shall be expended for the purposes for which the weighting was assigned under this subparagraph. A home school assistance program shall not provide moneys received pursuant to 257.6(1), nor resources paid for with moneys received pursuant to 257.6(1), to parents or students utilizing the program **(257.6(1)"a"(5))**.

A school district shall not make monetary payments, including cash and cash equivalents, or give publicly funded resources, directly or indirectly to the parent, guardian, or legal or actual custodian or to a child receiving competent private instruction. A school district shall not purchase texts or supplementary materials for or on behalf of a child receiving competent private instruction if such texts or supplementary materials are not appropriate for use by regularly enrolled students of the school district **(IAC 281—31.5(4)"a")**.

Each school district shall, by October 15, annually report the school district's actual enrollment on October 1 by the student's county of residency. The county of residency for each of the students shall be the county in which the student lives in accordance with Iowa Code section 282.1. The county of residency for an emancipated minor attending the school district shall be the county in which the emancipated minor is living. If a school district cannot determine an enrolled student's county of residency or if the county of residency is not a county in which the school district is located, the county of residency shall be the county in which the school district certifies its budget. **(IAC 281--96.2)**.

## **Tuition**

Persons between five and twenty-one years of age are of school age. Nonresident children shall be charged the maximum tuition rate as determined in subsection 282.24(1), with the exception that those residing temporarily in a school corporation may attend school in the corporation upon terms prescribed by the board, and boards discontinuing grades under section 282.7, subsection 1 or subsections 1 and 3, shall be charged tuition as provided in subsection 282.24(2) [*this is a typo in Code and should refer to subsection 282.24(1)*] **(282.1)**.

Every school shall be free of tuition to all actual residents between the ages of 5 and 21 years and to resident veterans as defined in section 35.1, as many months after becoming 21 years of age as they have spent in the armed forces of the United States before they became 21, provided, however, fees may be charged covering instructional costs for a summer school or drivers education program. The board of education may, in a hardship case, exempt a student from payment of the above fees. Every person, however, who shall attend any school after graduation from a four-year course in an approved high school or its equivalent [GED] shall be charged a sufficient tuition fee to cover the cost of the instruction received by the person. This section shall not apply to tuition authorized by chapter 260C [Community



Colleges]. For purpose of this section, "resident" means a person who is physically present in a district, whose residence has not been established in another district by operation of law, and who meets any of the following conditions:

4. Is in the district for the purpose of making a home and not solely for school purposes.
5. Meets the definitional requirements of the term "homeless individual" under 42 U.S.C. section 11302(a) and (c).
6. Lives in a residential correctional facility in the district **(282.6)**.

A student enrolled in 9th, 10th, or 11th grade during the school year preceding the effective date of a dissolution proposal, who was a resident of the school district that dissolved, may enroll in a school district to which territory of the school district that dissolved was attached until the student's graduation from high school, unless the student was expelled or suspended from school and the conditions of expulsion or suspension have not been met. The student under expulsion or suspension shall not be enrolled until the board of directors of the school district to which territory of the dissolved school district was attached approves, by majority vote, the enrollment of the student. Notwithstanding section 282.24, the district of residence of the student, determined in the dissolution proposal, shall pay tuition to the school district selected by the student in an amount not to exceed the district cost per pupil of the district of residence and the school district selected by the student shall accept that tuition payment and enroll the student **(275.55A)**. Open enrollment requirements would not apply. If the student is served pursuant to an IEP, tuition would be the actual costs of the special education instructional program rather than the district cost per pupil.

A school district that provides driver education to students enrolled in a parochial school located within the district shall charge tuition for students who are nonresidents of the district **(OAG #82-5-16(L))**.

Tuition charges to the parent or guardian of a shared-time or part-time nonresident pupil shall be reduced by the amount of any increased state aid by the counting of the pupil. *[Note that the resident district, if it is not the one providing the instruction for these shared-time and part-time students, would not count these students in basic enrollment nor pay tuition for these students unless served pursuant to an IEP in a public school program. Also note that the requirement on how to calculate shared time FTE is identical to the requirement for calculating maximum tuition for the part-time attendance of students so it would result in no tuition billed to parents.]* **257.6(1)"a"(3)**.

The maximum tuition fee that may be charged for elementary and high school [means secondary] students residing within another school district or corporation except students attending school in another district under section 282.7, subsection 1, or subsections 1 and 3 [discontinued grades, whole grade sharing], is the district cost per pupil of the receiving district as computed in section 257.10. This does not prevent the corporation or district in which the student resides from paying a tuition in excess of the maximum computed tuition rates, if the actual per pupil cost of the preceding year so warrants, but the receiving district or corporation shall not demand more than the maximum rate **(282.24(1), OAG #53-9-8)**.

Unless specifically authorized by Code, no other per pupil funding shall be added to the maximum tuition rate.

The school corporation in which the student resides shall pay from the general fund to the secretary of the corporation in which the student is permitted to enroll, a tuition fee as prescribed in section 282.24. It shall be unlawful for any school district to rebate to any pupils or their parents, directly or indirectly, any portion of the tuition collected or to be collected or to authorize or permit such pupils to receive at the expense of the district, directly or indirectly, any special compensation, benefit, privilege, or other thing of value that is not and cannot legally be made available to all other pupils enrolled in its schools. Any superintendent or board members responsible for such unlawful act shall each be personally liable to a fine not to exceed one hundred dollars. Action to recover such penalty or action to enjoin such unlawful act may be instituted by the board of any school district or by a taxpayer in any school district. On or before February 15 and June 15 of each year the secretary of the creditor district shall deliver to the secretary of the debtor district an itemized statement of such tuition fees **(282.20)**.

Iowa Code section 282.21 sets up the method for the collection of tuition fees owed from one local board to another but not paid, and subsection 285.1(13) provides the method of collection of transportation costs **(OAG #52-2-7(L))**.

If [tuition] payment is not made, the board of the creditor corporation shall file with the auditor of the county of the pupil's residence a statement certified by its president specifying the amount due for tuition, and the time for which the same is claimed. The auditor shall transmit to the county treasurer an order directing the county treasurer to transfer the amount of such account from the funds of the debtor corporation to the creditor corporation, and the county treasurer shall pay the same accordingly **(282.21)**.

A school district which waives the right to collect tuition from a nonresident pupil must provide equal treatment to all other nonresident pupils enrolled in its schools (**OAG #73-3-15**). Waiving collection of legitimate tuition revenue may violate the public interest.

A school corporation cannot discriminate in the rate of tuition which it charges pupils for the same school advantages, whether the pupils live within the state or without the state (**OAG #28-5-24(L)**).

School-age pupils whose parents are residents of the school district are entitled to free tuition even though their parents are state employees, that is, if the parents reside in the district and have no other place of residence (**OAG #24-11-24(L)**).

School-age pupils whose parents are aliens and who are residents of Iowa are entitled to school privileges without tuition in the district wherein they reside (**OAG #27-12-2**).

Schools having students whose parents are residents of the district but who work on federal property should be aware of the provisions of Public Law 874 and, if eligible, shall secure the proper application forms from the department of education.

When parents move during the school year, a change in schools or payment of tuition is ordinarily necessary (**Nishna Valley Community School District v. Malvern Community School District, 255 Iowa 132, 138; 121 N.W. 2d 646 (1963)**).

If a non-resident pupil enters school at the beginning of the school year but is forced by sickness or other reasons to be absent from school for several weeks, and if the pupil returns and makes up schoolwork, the receiving district is entitled to full tuition. This would not apply for the part of the year in which the pupil was not enrolled after the beginning of the term (**OAG #30-8-12(L)**).

A school board cannot use the funds of a district to pay tuition to a private or parochial school (**OAG #28-8-27(L)**).

#### **Offsetting Tax**

The parent or guardian whose child or ward attends school in a district of which the parent or guardian is not a resident shall be allowed to deduct the amount of school tax paid by the parent or guardian in said district from the amount of tuition required to be paid (**282.2**).

The benefit provided to offset tuition by the amount of school tax is also available for tuition charged to nonresident pupils who receive shared time instruction pursuant to a relationship between a public and an accredited nonpublic school (**OAG #83-1-8(L)**).

When a tenant rents property in two districts, living in one district where there is a school but sending the children to a school in another district, the tenant must pay tuition. But if the tenant pays any school tax in the district where the children attend school, the tenant is entitled to deduct such school tax from the amount of tuition (**OAG #23-2-10(L)**).

Property tax on trust property for which a parent is not liable is not available to offset nonresident tuition charges (**OAG #88-1-7(L)**).

#### **Foreign Exchange Program Students**

The term "legal resident of Iowa" should be defined as a residence in the county with the good faith intention of making a home in said county coupled with the physical facts showing such intention. That is, the residence must not be for a temporary purpose only but must be with the present good faith intention of making it a home without any present intention of removing therefrom (**1930 Op. Att'y Gen. 153**).

Aliens in the United States on temporary student visas are not residents of Iowa (**OAG #79-6-12**).

Visiting students on visas do not meet the two basic criteria for tuition-free residence in Iowa public schools under 282.1: They are not and cannot become residents of the school districts in which they live in the state because of the temporary nature of the residence inherent in the visa and the visa status indicates that they are in the United States for the primary purpose of obtaining an education (**1 D.P.I. Dec. Rul. 80**).

Omnibus Authorization Bill for the Commerce, State and Justices Department, **P.L. 104-208**, "Illegal Immigration Reform and Immigrant Responsibility Act of 1996," requires that visiting students on F-1 visas must pay tuition to

attend public elementary and secondary schools or publicly funded adult education programs. There is no exception to this law. Federal law does not apply to students on J-1 visas. Iowa school districts can continue to waive collection of tuition for students on J-1 visas based on the 'nonresident children residing temporarily in the district' provision in section 281.1 (**Iowa Superintendents Update, Department of Education, 1996-97**). Waiving tuition does not authorize the district to consider the students on J-1 visas to be resident students.

### **Special Education Tuition**

Instructional services are the specially designed instruction and accommodations provided by special education instructional personnel to eligible individuals. These services are ordinarily provided by the school district but, in limited circumstances, may be provided by another school district, the AEA or another recognized agency through contractual agreement. An agency must use the procedure and criteria described in subrule 281—41.408(2) for creating a delivery system for instructional services (**IAC 281--41.408(1)**).

The law that allows eleventh and twelfth grade students to move from a district but to continue attending the district until graduation without the payment of tuition does not include those students who require special education and are counted in the "weighted enrollment" for the generation of funds. Special education students may still participate in the "junior-senior rule option," however, the district of residence must pay tuition to the former district of residence continuing to serve the student (**OAG #88-8-3(L)**). Open enrollment requirements do not apply.

The program costs charged by a school district or an AEA for an instructional program for a nonresident eligible individual shall be the actual costs incurred in providing that program (**IAC 281—41.907(1)**).

An AEA or school district may make provisions for resident eligible individuals through contracts with public or private agencies that provide appropriate and approved special education. The program costs charged by or paid to a public or private agency for special education instructional programs shall be the actual costs incurred in providing that program (**IAC 281--41.907(2)**).

Any special education instructional program not provided directly by a school district or any special education support service not provided by an AEA can only be provided through a contractual agreement. The board shall approve contractual agreements for AEA-operated special education instructional programs and contractual agreements permitting special education support services to be provided by agencies other than the AEA (**IAC 281—41.903(1)**).

The resident school district shall be liable only for instructional costs incurred by an agency for those individuals certified as eligible in accordance with these rules unless required by 34 C.F.R. section 301.104 (**IAC 281--41.907(3)**).

Support service funds may not be utilized to supplement any special education programs authorized to use special education instructional funds generated through the weighting plan (**IAC 281—41.907(4)**).

Eligible individuals who are living in a licensed individual or agency child foster care facility, as defined in Iowa Code 237.1, or in unlicensed relative foster care placement shall remain enrolled in and attend an accredited school in the school district in which the child resided and is enrolled at the time of placement, unless it is determined by the juvenile court or a public or private agency of this state that has responsibility for the child's placement that remaining in such school is not in the best interests of the child. If such a determination is made, the child may be enrolled in the district in which the child is placed and not in the district in which the child resided prior to receiving foster care. The costs of the special education required by this IAC chapter 281—41 shall be paid, in either case, by the school district of residence of the eligible individual (**IAC 281—41.907(5)"a"**).

For eligible individuals who are living in a facility as defined in Iowa Code section 125.2, the school district in which the facility is located must provide special education if the facility does not maintain a school. The costs of the special education, however, shall be paid by the school district of residence of the eligible individual (**IAC 281—41.907(5)"b"**).

If the school district of residence of the eligible individual cannot be determined, and this individual is not included in the weighted enrollment of any school district in the state, the school district in which the facility is located may certify the costs to the director of education by August 1 of each year for the preceding fiscal year. Payment shall be made from the general fund of the state (**IAC 281--41.907(5)"c"**).

For eligible individuals placed by the district court, and for whom parental rights have been terminated by the district court, the school district in which the facility or home is located must provide special education. Costs shall be certified to the director of education by August 1 of each year for the preceding fiscal year by the director of the AEA

in which the eligible individual has been placed. Payment shall be made from the general fund of the state (**IAC 281--41.907(6)**).

The Department of Education may establish procedures by which it determines which district initially pays the costs of special education and related services and seeks reimbursement in situations where a parent of a child cannot be located, parental rights have been terminated, or parents are deceased (**IAC 281—41.907(10)**).

Special education instructional funds generated through the weighting plan may be utilized to provide special education instructional services both in state and out of state with the exception of itinerate instructional services under subrule 41.410(1) and special education consultant services which shall utilize special education support service funds for both in-state and out-of-state placements (**IAC 281—41.907(7)**).

#### **Tuition to Postsecondary Institutions**

Not later than June 30 of each year, a school district shall pay a tuition reimbursement amount to a postsecondary institution that has enrolled its resident eligible students under chapter 261E, unless the eligible student is participating in open enrollment under section 282.18, in which case, the tuition reimbursement amount shall be paid by the receiving district. However, if a child's residency changes during a school year, the tuition shall be paid by the district in which the child was enrolled as of the date specified in section 257.6(1), or the district in which the child was counted under section 257.6(1)"a"(6). For students enrolled at the school for the deaf and the Iowa braille and sight saving school, the state board of regents shall pay a tuition reimbursement amount by June 30 of each year. The amount of tuition reimbursement for each separate course shall equal the lesser of:

- a. The actual and customary costs of tuition, textbooks, materials, and fees directly related to the course taken by the eligible student.
- b. Two hundred fifty dollars (\$250) (**261E.7(1)**).

A student participating in the postsecondary enrollment options act program is not eligible to enroll on a full-time basis in an eligible postsecondary institution. A student enrolled on such a full-time basis shall not receive any payments under this section (**261E.7(2)**).

An eligible postsecondary institution that enrolls an eligible student under section 261E.7 shall not charge that student for tuition, textbooks, materials, or fees directly related to the course in which the student is enrolled except that the student may be required to purchase equipment that becomes the property of the student. However, if the student fails to complete and receive credit for the course, the student is responsible for all costs directly related to the course as provided in subsection 261E.7(1) and shall reimburse the school district for its costs. If the student is under 18 years of age, the student's parent or legal guardian shall sign the student registration form indicating that the parent or legal guardian is responsible for all costs directly related to the course if the student fails to complete and receive credit for the course. If documentation is submitted to the school district that verifies that the student was unable to complete the course for reasons including but not limited to the student's physical incapacity, a death in the student's immediate family, or the student's move to another school district, that verification shall constitute a waiver to the requirement that the student or parent or legal guardian pay the costs of the course to the school district (**261E.7(3)**).

An eligible postsecondary institution shall make pro rata adjustments to tuition reimbursement amounts based upon federal guidelines established pursuant to 20 U.S.C. section 1091b (**261E.7(4)**).

In addition to postsecondary enrollment options act classes, Community Colleges may provide the following programs for high school age students under a written agreement with the school district:

- Programs for all students of high school age who may best serve themselves by enrolling for vocational and technical training while also enrolled in a local high school, public or private (**260C.1(5)**). It is the duty of the director to enter into contracts with local school boards within the area that have and maintain a technical or vocational high school and with private schools or colleges in the cooperative or merged areas to provide courses or program of study in addition to or as part of the curriculum made available in the community college (**260C.5(7)**).
- Programs for students of high school age to provide advanced college placement courses not taught at a student's high school while the student is also enrolled in the high school (**260C.1(6)**). It is the duty of the director to make arrangements with boards of merged areas and local school districts to permit students attending high school to participate in vocational-technical programs and advanced college placement courses and obtain credit for such participation for application toward the completion of a high school diploma. The granting of credit is subject to the approval of the director of the Department of Education (**260C.5(8)**).
- A district-to-community college sharing or concurrent enrollment program is established to be administered by the Department of Education to promote rigorous academic or career and technical pursuits and to provide a wider variety of options to high school students to enroll part-time in eligible nonsectarian courses at or through

community colleges. The program shall be made available to all resident students in grades 9 through 12 and generate both community college and high school credit. Concurrent enrollment programs that meet the requirements of section 257.11(3) are eligible for funding under that provision [supplementary weighting] **(261E.8)**.

Except for students enrolled under 261E.6 [PSEO], if a local school district pays tuition for a resident pupil of high school age, the amount of tuition shall be determined by the board of directors of the community college with the consent of the local school board, and the pupil shall not be included in the full-time equivalent enrollment of the community college for the purpose of computing general aid to the community college **(260C.14(2))**.

The board of any community college may, by mutual agreement with any college or university, permit any specially qualified high school student to attend advanced courses of academic instruction at the college or university. The state board of regents and the state board of education may by rule permit such students to attend any institution of higher learning under their jurisdiction. Credit earned in any such course at a college or university may be applied toward credit for high school graduation. Public school funds shall not be expended for payment of tuition or other costs for such attendance at a college or university, unless the payment is expressly permitted or required by law. The foregoing provisions shall also apply to college and universities in adjacent states when the institutions are located nearer to the homes or schools of the school district than the closest college or university within the state **(282.26)**. *This provision of Code is not PSEO. This provision would happen if a student has exhausted all options of coursework provided by the high school and community college or needs greater academic rigor than is available at the high school or community college.*

#### **Tuition from the State Board of Regents**

The state board of regents shall pay to the local school boards the tuition payments and transportation costs, as otherwise authorized by statutes for the elementary or high school education of students residing on land owned by the state and under the control of the state board of regents. Such payments for the three institutions of higher learning, the state University of Iowa, the Iowa State University of science and technology and the University of Northern Iowa, shall be made from the funds of the respective institutions other than state appropriations, and for the two noncollegiate institutions, the Iowa braille and sight saving school and the state school for the deaf the payments and costs shall be paid from moneys appropriated to the state board of regents **(262.43)**.

#### **Discontinued Grades and Sharing**

The board of directors of a school district by record action may discontinue any or all of grades seven through twelve and negotiate an agreement for attendance of the pupils enrolled in those grades in the schools of one or more contiguous school districts having accredited school systems. If the board designates more than one contiguous district for attendance of its pupils, the board shall draw boundary lines within the school district for determining the school districts of attendance of the pupils. The portion of a district so designated shall be contiguous to the accredited school district designated for attendance. Only entire grades may be discontinued under subsection 282.7(1) and if a grade is discontinued, all higher grades in that district shall also be discontinued. The boards of directors entering into an agreement under this section shall provide for sharing the costs and expenses as provided in sections 282.10 through 282.12 [whole grade sharing]. The agreement shall provide for transportation and authority and liability of the affected boards **(282.7(1))**.

A school district may negotiate an agreement for attendance of its pupils in a school district located in a contiguous state subject to a reciprocal agreement by the two state boards in the manner provided in 282.7(3). A school district that negotiates an agreement with a school district in a contiguous state under subsection 282.7(3) is not eligible for supplementary weighting as a result of that agreement **(282.7(3))**.

Whole grade sharing is a procedure used by school districts whereby all or a substantial portion of the pupils in any grade in two or more school districts share an educational program for all or a substantial portion of a school day under a written agreement pursuant to section 256.13, 280.15, or 282.7, subsection 1 or subsections 1 and 3. Whole grade sharing may either be one-way or two-way sharing. One-way whole grade sharing occurs when a school district sends pupils to one or more other school districts for instruction and does not receive a substantial number of pupils from those districts in return. Two-way whole grade sharing occurs when a school district sends pupils to one or more other school districts for instruction and receives a substantial number of pupils from those school districts in return. A whole grade sharing agreement shall be signed by the boards of the districts involved in the agreement not later than February 1 of the school year preceding the school year for which the agreement is to take effect. The boards of the districts shall negotiate as part of the new or existing agreement the disposition of teacher quality funding provided under chapter 284 **(282.10)**.

Within the 30-day period prior to the signing of the whole grade sharing agreement, the parent or guardian of an affected pupil may request the board of directors to send the pupil to another contiguous school district. For the purpose of this section, affected pupils are those who under the whole grade sharing agreement are attending or scheduled to attend the school district specified in the agreement, other than the district of residence, during the term of the agreement. The request shall be based upon one of the following:

1. That the agreement will not meet the educational program needs of the pupil.
2. That adequate consideration was not given to geographical factors.

The board shall allow or disallow the request prior to the signing of the agreement, or the request shall be deemed granted. If the board disallows the request, the board shall indicate the reasons why the request is disallowed and shall notify the parent or guardian that the decision of the board may be appealed as provide in section 282.11. If the parent or guardian appeals, the standard of review of the appeal is a preponderance of evidence that the parent's or guardian's hardship outweighs the benefits and integrity of the sharing agreement. The state board may require the district of residence to pay tuition to the contiguous school district specified by the parent or guardian, or may deny the appeal by the parent or guardian. If the state board requires the district of residence to pay tuition to the contiguous school district specified by the parent or guardian, the tuition shall be equal to the tuition established in the sharing agreement **(282.11)**.

An agreement for whole grade sharing shall establish a method for determination of costs, if any, associated with the sharing agreement. For one-way sharing, the sending district shall pay no less than one-half of the district cost per pupil of the sending district. For two-way sharing, the costs shall be determined by mutual agreement of the boards. The number of pupils participating in a whole grade sharing agreement shall be determined on the date specified in subsection 257.6(1), and on third Friday of February of each year **(282.12)**. The maximum tuition fee that may be charged for elementary and high school students residing within another school district or corporation except students attending school in another district under section 272.7, subsection 1, or subsection 1 and 3, is the district cost per pupil of the receiving district as computed in section 257.10 **(282.24)**. *It should be noted that 282.24 does not include an exception for students whole grade shared under section 282.10, and therefore, the maximum tuition rate would apply.*

Two or more public school districts may jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment, and facilities. If students attend classes in another school district under this section under an agreement that provides for whole grade sharing, the boards of directors of the districts entering into these agreements shall provide for sharing the costs and expenses as provided in sections 282.10 through 282.12 **(280.15)**.

The boards of directors of two or more school districts may by agreement provide for attendance of pupils residing in one district in the schools of another district for the purpose of taking courses not offered in the district of their residence. The boards may also provide by agreement that the districts will combine their enrollments for one or more grades. The board of directors of districts entering into such agreements may provide for sharing the costs and expenses of the courses. If the agreement provides for whole grade sharing, the costs and expenses shall be paid as provided in sections 282.10 through 282.12 **(256.13)**.

A student enrolled in ninth, tenth, or eleventh grade during the school year preceding the effective date of a dissolution proposal, who was a resident of the school district that dissolved, may enroll in a school district to which territory of the school district that dissolved was attached until the student's graduation from high school, unless the student was expelled or suspended from school and the conditions of expulsion or suspension have not been met. The student under expulsion or suspension shall not be enrolled until the board of directors of the school district to which territory of the dissolved school district was attached approves, by majority vote, the enrollment of the student. Notwithstanding section 282.24, the district of residence of the student, determined in the dissolution proposal, shall pay tuition to the school district selected by the student in an amount not to exceed the district cost per pupil of the district of residence and the school district selected by the student shall accept that tuition payment and enroll the student **(275.55A)**.

The boards of directors of school districts located near the state boundaries may designate schools of equivalent standing across the state lines for attendance of both elementary and high school pupils when the public school in the adjoining state is nearer than any appropriate public school in a pupil's district of residence or in Iowa. Distance shall be measured by the nearest traveled public road. Arrangements shall be subject to reciprocal agreements made between the chief state school officers of the respective states. Notwithstanding section 282.1, arrangements between districts pursuant to the reciprocal agreements made under this section shall establish tuition and transportation fees in an amount acceptable to the affected boards, but the tuition and transportation fees shall not be less than the lower average cost per pupil for the previous school year of the two affected school districts. For the purpose of this section average cost per pupil for the previous school year is determined by dividing the district's operating expenditures for the previous school year by the number of children enrolled in the district in the previous school year on the date specified in subsection 257.6(1) **(282.8)**.

## Open Enrollment

It is the goal of the general assembly to permit a wide range of educational choices for children enrolled in schools in this state and to maximize ability to use those choices. It is therefore the intent that section 282.18 be construed broadly to maximize parental choice and access to educational opportunities which are not available to children because of where they live **(282.18(1))**.

For the school year commencing July 1, 1989, and each succeeding school year, a parent or guardian residing in a school district may enroll the parent's or guardian's child in a public school in another school district in the manner provided in section 282.18 [which includes a deadline of March 1 for grades 1-12 and September 1 for kindergarten] **(282.18(1))**.

The board of the receiving district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil **(282.18(2))**.

The superintendent of a district subject to a voluntary diversity or court-ordered desegregation plan, as recognized by rules of the state board of education, may deny a request for transfer under section 282.18 if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order or diversity plan, unless the transfer is requested by a pupil whose sibling is already participating in open enrollment to another district or unless the request for transfer is submitted to the district in a timely manner as required under subsection 2 prior to the adoption of a desegregation plan by the district. The decision is appealable **(282.18(3))**.

For requests received after March 1 of the preceding school year and until the date specified in subsection 257.6(1) [October 1], the board of the receiving district shall take action to approve the request if good cause exists. A denial of a request by the board of a receiving district is not subject to appeal. Good cause means a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship or custody proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, a change in the status of child's resident district such as removal of accreditation by the state board, surrender of accreditation, or permanent closure of a nonpublic school, revocation of a charter school contract as provided in section 256F.8, the failure of negotiations for a whole grade sharing, reorganization, dissolution agreement or the rejection of a current whole grade sharing agreement, or reorganization plan. If a resident district believes that a receiving district is violating this subsection the resident district may appeal **(282.18(4))**.

Open enrollment applications filed after March 1 of the preceding school year that do not qualify for good cause shall be subject to the approval of the board of the resident district and the board of the receiving district. A decision of either board to deny an application filed under this subsection involving repeated acts of harassment of the student or serious health condition of the student that the resident district cannot adequately address is subject to appeal. The state board shall exercise broad discretion to achieve just and equitable results that are in the best interest of the affected child or children **(282.18(5))**. Denial of open enrollment by the resident district also does not obligate the parent to return the child to enrollment in the resident district.

Subsection 282.18(7) states that a pupil participating in open enrollment shall be counted for state school foundation aid purposes in the pupil's district of residence. If the resident district denies the open enrollment request that was filed after March 1 that did not qualify for good cause, then the student is not under open enrollment and the district of residence cannot count the student on its certified enrollment. In addition, an enrolled student is defined as a student who is registered and served. If the resident district is not providing for the student's education through payment of tuition, then the student is not served by the resident district, and again the resident district is not permitted to count that student for certified enrollment. By denying open enrollment, the resident district will not be required to pay tuition for that student for open enrollment, but will also not be allowed to generate funding for that student.

For a pupil participating in open enrollment, the board of directors of the district of residence shall pay to the receiving district the state cost per pupil for the previous school year, plus any moneys received for the pupil as a result of non-English speaking weighting under subsection 280.4(3) for the previous year multiplied by the state cost per pupil for the previous year. If the pupil participating in open enrollment is also an eligible pupil under section 261E.6 [PSEO], the receiving district shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in section 261E.7 **(282.18(7))**.

For children requiring special education under chapter 256B, the board of directors of the district of residence shall pay to the receiving district the actual costs incurred in providing the appropriate special education **(282.18(8), IAC 281—17.11)**. The prior year's state cost per pupil is not relevant for open enrolled special education students because tuition

must be based on actual costs. Actual costs of the current year program are calculated on current year actual costs rather than the prior year's actual costs except for any limited English proficiency weighting.

**Tuition Billing Comparison on Special Education Students Who are and are not Open Enrolled**

<b>SPECIAL EDUCATION STUDENT BILLING</b>		
	<b>OPEN ENROLLED IN</b>	<b>TUITIONED IN</b>
SP ED PROGRAM COSTS	(Program expenditures at the appropriate level divided by student days for that level) multiplied by the student days of the student for whom this billing is being calculated.	(Program expenditures at the appropriate level divided by student days for that level) multiplied by the student days of the student for whom this billing is being calculated.
GEN ED PROGRAM COSTS	((District cost per pupil of the serving district times the appropriate percentage for the level) divided by 180 days) multiplied by the student days of the student for whom this billing is being calculated.	((District cost per pupil of the serving district times the appropriate percentage for the level) divided by 180 days) multiplied by the student days of the student for whom this billing is being calculated.
LEP FUNDING	If moneys are received for the pupil as a result of the non-English speaking weighting under subsection 280.4(3) for the previous school year, then ((LEP weighting of prior year multiplied by the state cost per pupil for the previous year) divided by 180 days) multiplied by the student days of the student for whom this billing is being calculated.	Does not follow student.

Quarterly payments shall be made to the receiving district **(282.18(9), IAC 281—17.10(5))**. In the event that the pupil who is under open enrollment withdraws from school, moves into the district of attendance, moves out of state, moves to another district in the state of Iowa and elects to attend that district, graduates at midyear, is allowed to return to the district of residence during the school year, or other similar set of circumstances that result in the pupil no longer attending in the receiving district, payment of cost per pupil will be prorated **(IAC 281—17.10(6))**.

If a parent or guardian of a child, who is participating in open enrollment under section 282.18, moves to a different school district during the course of either district's academic year [after count date], the child's first district of residence shall be responsible for payment of the cost per pupil plus [LEP] weightings or special education costs to the receiving school district for the balance of the school year in which the move took place. The new district of residence shall be responsible for the payments during succeeding years **(282.18(9))**.

If a request to transfer is due to a change in family residence, change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, and the child, who is the subject of the request is enrolled in any grade from kindergarten through grade twelve at the time of the request and is not currently using any provision of open enrollment, the parent or guardian of the child shall have the option to have the child remain in the child's original district of residence under open enrollment with no interruption in the child's educational program. If a parent or guardian exercises this option, the child's new district of residence is not required to pay the amount calculated in 282.18(7) [state cost per pupil for the previous year plus LEP] until the start of the first full year of enrollment of the child **(282.18(9))**.

If open enrollment begins on or after the date specified in Iowa Code section 257.6, subsection 1, the resident district is not required to pay per pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment **(IAC 281—17.10(7))**.

Open enrollment applies to the research and development school [Malcolm Price Laboratory School] **(256G.3(1)"c")**.

If a request under section 282.18 is for transfer to a laboratory school, as described in chapter 256G, the student, who is the subject of the request, shall be included in the basic enrollment of the student's district of residence and the board of directors of the district of residence shall pay to a laboratory school the state cost per pupil for the previous school year, plus any moneys received for the pupil as a result of the non-English speaking weighting under section 280.4, subsection 3, for the previous school year multiplied by the state cost per pupil for the previous year. Notwithstanding subsection 7, a district of residence shall not be required to pay the state cost per pupil for a student attending a



laboratory school during the school year beginning July 1, 2010, if the student was not included in the district of residence's enrollment count for funding purposes in the school year beginning July 1, 2009 **(282.18(15A))**.

If a transfer of a pupil from one district to another results in a transfer from one AEA to another, the sending district shall forward a copy of the request to the sending district's AEA. The receiving district shall forward a copy of the request to the receiving district's AEA. Any moneys received by the AEA of the sending district for the pupil who is the subject of the request shall be forwarded to the receiving district's AEA **(282.18(9))**.

A district of residence may apply to the school budget review committee (SBRC) if a student was not included in the resident district's enrollment count during the fall of the year preceding the student's transfer under open enrollment **(282.18(9))**. This situation would occur if the student moved into the district after the official count date in the previous school year, or was not enrolled in school in the previous school year, or was enrolled in a nonpublic school or home schooling without dual enrollment or home school assistance in the previous school year. This section does not apply if the student was enrolled in school on the official count date in the previous year but the resident district omitted the student from the enrollment count.

If the parent or guardian of a pupil who is participating in open enrollment changes the school district of residence during the term of the agreement, the parent or guardian shall have the option to leave the pupil in the receiving district under open enrollment, to open enroll to another school district, or to enroll the pupil in the new district of residence, thus terminating the open enrollment agreement. If the choice is to leave the pupil under open enrollment or to open enroll to another school district, the original district of residence shall be responsible for payment of the cost per pupil plus any applicable weightings or special education costs for the balance of the school year, if any, in which the move took place on or after the date specified in Iowa Code section 257.6, subsection 1. The new district of residence shall be responsible for these payments during succeeding years of the agreement. If the move takes place between after the end of one school year and before the date specified in Iowa Code section 257.6, subsection 1, of the following school year, the new district of residence shall be responsible for that year's payment as well as succeeding years **(IAC 281--17.8(6))**.

If a parent or guardian moves out of the school district or residence, and the pupil is not currently under open enrollment, the parent or guardian has the option for the pupil to remain in the original district of residence as an open enrollment pupil with no interruption in the education program or to open enroll to another school district. This option is not available to the parent or guardian of a student who is entering kindergarten for the first time. The parent or guardian exercising this option shall file an open enrollment request form with the new district of residence for processing and record purposes. This request shall be made on or before the date specified in Iowa Code section 257.6, subsection 1. Timely requests under this subrule shall not be denied. If the move is on or after the date specified in Iowa Code section 257.6, subsection 1, the new district of residence is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment transfer **(IAC 281--17.8(7))**.

Open enrollment ends when a student drops out of school or when the student graduates, moves into the receiving district, moves into a third district and does not elect to continue attending in the receiving district, moves out of state, elects to attend a nonpublic school instead of the receiving district, or any circumstances not excepted below that results in the pupil no longer attending the receiving district. The exception to this rule is if the student is placed temporarily in foster care, a juvenile detention center, mental health or substance abuse treatment facility, or other similar placement. In these cases the open enrollment status will automatically be reinstated when the student returns **(IAC 281--17.8(10))**. Open enrollment tuition payment is also terminated or suspended as the open enrollment status is terminated or suspended.

Open enrollment options shall be made available for pupils at no instructional cost to their parents or guardians. Open enrollment pupils shall be considered enrolled resident pupils in the resident district and shall be included in the certified enrollment count of that district for the purposes of generating school foundation aid **(IAC 281--17.10)**.

For full-time pupils, the resident district shall pay each year to the receiving district an amount equal to the state cost per pupil for the previous year plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4 **(IAC 281--17.10(1))**.

For pupils who receive competent private instruction and are dual enrolled, the resident district shall pay each year to the receiving district an amount equal to 0.1 times the state cost per pupil for the previous year plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4. However, a pupil dual enrolled in grades 9 through 12 shall be counted by the receiving district in the same manner as a shared-time pupil under Iowa Code section 257.6(1)"c" [nonpublic shared time] **(IAC 281--17.10(2))**.

For pupils who receive competent private instruction and are registered for a home school assistance program, the resident district shall pay each year to the receiving district an amount equal to .3 times the state cost per pupil for the previous year plus any moneys received for the pupil as a result of non-English speaking weighting provided by section 280.4 (**IAC 281--17.10(3)**).

The resident district may deduct any transportation assistance funds for which the pupil is eligible as provided by subrule 17.9(2) (**IAC 281--17.10(4)**).

These moneys shall be paid to the receiving district on a quarterly basis. The district cost per pupil for nonspecial education students shall be the cost calculated each year for the school year preceding the school year for which the open enrollment takes place. Costs for special education students shall be as outlined in rule 17.11 (**IAC 281--17.10(5)**).

In the event that the pupil who is under open enrollment withdraws from school, moves into the district of attendance, moves out of state, moves to another district in the state of Iowa and elects to attend that district, graduates at midyear, is allowed to return to the district of residence during the school year, or other similar set of circumstances that result in the pupil no longer attending in the receiving district, payment of the cost per pupil will be prorated [on a per diem basis for the quarter and for the year] (**IAC 281--17.10(6)**).

The resident district and the receiving district boards by mutual agreement may effectuate the change in enrollment of an open enrollment pupil at any time following receipt of a petition for transfer which is approved by the two boards. A change due to good cause is a late change in enrollment. If any change in enrollment is made on or after the date specified in Iowa Code section 257.6, subsection 1, the resident district is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment (**IAC 281--17.10(7)**).

Open enrollment provisions do not apply to a student enrolled in ninth, tenth, or eleventh grade during the school year preceding the effective date of a dissolution proposal, who was a resident of the school district that dissolved, who may enroll in a school district to which territory of the school district that dissolved was attached until the student's graduation from high school under section 275.55A.

Open enrollment provisions do not apply to eleventh and twelfth grade students who were residents of another Iowa district during the preceding school year and are enrolled in the former district of residence until the students graduate (**257.6(1)"a"(4)**). If the students are receiving a special education program pursuant to an IEP, the new district of residence counts the students and pays tuition to the former district of residence for the enrollment of the students. These students are considered tuitioned out rather than open enrolled out (**OAG #88-8-3(L)**).

## **Special Enrollments and Payments**

### **Vocational Education Aid**

If a school corporation maintains an approved vocational school, department, or classes in accordance with the rules adopted by the state board, and rules and standards adopted by the board of educational examiners, and the state plan for vocational education, adopted by the board for vocational education and approved by the United States department of education, the director of the department of education shall reimburse the school corporation at the end of the fiscal year for its expenditures for salaries and authorized travel of vocational teachers from federal and state funds. However, a school corporation shall not receive from federal and state funds a larger amount than one-half the sum which has been expended by the school corporation for that particular type of program. If federal and state funds are not sufficient to make the reimbursement to the extent provided in this section, the director shall prorate the respective amounts available to the corporations entitled to reimbursement (**258.5**).

### **Child Living in Psychiatric Hospitals or Institutions**

The public school district in which is located a psychiatric unit of a hospital licensed under chapter 135B or a psychiatric medical institution for children licensed under chapter 135H, which is not operated by the state, shall be responsible for the provision of educational services to children residing in the unit or institution. Children residing in the unit or institution shall be included in the basic enrollment of their districts of residence, as defined in subsection 282.31(4) (**282.27**).

The board of directors of each district of residence shall pay to the school district in which is located such psychiatric unit or institution, for the provision of educational services to the child, a portion of the district of residence's district

cost per pupil for each of such children based upon the proportion that the time each child is provided educational services while in such unit or institution is to the total time for which the child is provided educational services during a normal school year **(282.27)**.

### **Children Residing in State Mental Health Institutes or State Institutions**

A child who resides in an institution for children under the jurisdiction of the director of human services referred to in section 218.1, subsection 3, 5, 7, or 8 [Cherokee MHI, Independence MHI, Eldora State Training School, or Iowa Juvenile Home in Toledo], and who is not enrolled in the educational program of the district of residence of the child, shall receive appropriate educational services. The institution in which the child resides shall submit a proposed program and budget based on the average daily attendance of the children residing in the institution to the Department of Education and the Department of Human Services by January 1 for the next succeeding school year. The institution shall submit an accounting for the actual cost of the program to the Department of Education by August 1 of the following school year. The approved accounting amount shall be compared with any amounts paid to the institution and any differences added to or subtracted from the October payment made for the next school year. Any amount paid shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year. The portion of the total amount of the approved budget that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year in which the deduction is made **(282.33)**. The costs of these programs shall not otherwise be billed to school districts.

### **Children Placed by District Court**

Notwithstanding subsection 282.31(1), a child who has been identified as requiring special education, who has been placed in a facility or home by the district court, and for whom parental rights have been terminated by the district court, shall be provided special education programs and services on the same basis as the programs and services are provided for children requiring special education who are residents of the school district in which the child has been placed. The special education instructional costs shall be paid as provided in section 282.31, subsection 2 or 3 **(282.29)**.

### **Interstate Compact--Children Placed by District Court Out of State**

Sending agency means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state **(232.158(2)"b")**.

Receiving state means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons **(232.158(2)"c")**.

The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement **(232.158(5)"a")**.

The appropriate public authorities under the interstate compact is Iowa refers to the state department of human services **(232.160)**.

Financial responsibility for any child placed pursuant to the provisions of the interstate compact on the placement of children shall be determined in accordance with the provisions in article V of 232.158 **(232.159)**. The fee negotiated by the resident state and the out-of-state agency includes all services provided to that child, including educational services except the additional costs of special education services. No school district shall pay any charges related to students placed out of state except for the additional costs of special education services.

### **Child Living in a Foster Care Facility**

A child who is living in a licensed child foster care facility as defined in section 237.1, or in a facility that provides residential treatment as "facility" as defined in section 125.2, which is located in a school district other than the school district in which the child resided before receiving foster care may enroll in and attend an accredited school in the

school district in which the child is living. The instructional costs for students who do not require special education shall be paid as provided in section 282.31, subsection 1, paragraph "b" or for students who require special education shall be paid as provided in section 282.31, subsections 2 or 3 **(282.19)**.

Chemical substance abuse facility means an institution, a detoxification center, or an installation providing care, maintenance and treatment for substance abusers licensed by the state under section 125.13, hospitals licensed under chapter 135B, or the state mental health institutes designated by chapter 226 [Mount Pleasant, Independence, Clarinda, and Cherokee] **(125.2(9))**.

"Child foster care" means the provision of parental nurturing, including but not limited to the furnishing of food, lodging, training, education, supervision, treatment or other care, to a child on a full-time basis by a person other than a relative or guardian of the child, but does not include:

- a. Care furnished by an individual person who receives the child of a personal friend as an occasional and personal guest in the individual person's home, free of charge and not as a business.
- b. Care furnished by an individual person with whom a child has been placed for lawful adoption, unless that adoption is not completed within two years after placement.
- c. Care furnished by a private boarding school subject to approval by the state board of education pursuant to section 256.11.
- d. Child care furnished by a child care center, a child development home, or a child care home as defined in section 237A.1.
- e. Care furnished in a hospital licensed under chapter 135B or care furnished in a nursing facility licensed under chapter 135C **(237.1(4))**.

The definition of "facility" and "licensee" includes that of a licensed foster parent and foster parent home even if it is a regular family dwelling with only one foster child **(AG, Informal advice, September 10, 1992)**.

The Department of Human Services, as custodians for a child, has the authority to sign the consent forms necessary for the child to take part in school activities, get a driver's license and obtain certain types of medical care **(OAG #84-12-9(L))**.

School districts in which any licensed foster care, residential treatment for substance abusers or other residential facilities not operated by the state is located are responsible for providing the educational program regardless of the residency of the students **(282.19)**. A facility does not have the authority to provide an educational program unless contracted by the district to do so.

A child who lives in a facility or home pursuant to section 282.19, and who does not require special education and who is not enrolled in the educational program of the district of residence of the child, shall be included in the basic enrollment of the school district in which the facility or home is located **(282.31(1)"b"(1))**.

However, on June 30 of a school year, if the board of directors of a school district determines that the number of children under this paragraph who were counted in the basic enrollment of the school district on the official count date in that school year is fewer than the sum of the number of months all children were enrolled in the school district under this paragraph during the school year divided by nine, the secretary of the school district may submit a claim to the Department of Education by August 1 following the school year for an amount equal to the district cost per pupil of the district for the previous school year multiplied by the difference between the number of children counted and the number of children calculated by the number of months of enrollment [or fraction thereof]. The amount of the claim shall be paid by the Department of Administrative Services to the school district by October 1. The Department of Administrative Services shall transfer the total amount of the approved claim of a school district from the moneys appropriated under section 257.16 and the amount paid shall be deducted monthly from the state foundation aid paid to all school districts in the state during the remainder of the subsequent fiscal year **(282.31(1)"b"(2))**.

The days of enrollment shall only include the regular school session, and shall not include days of summer session **(OAG 93-1-21(L))**.

The actual special education instructional costs incurred for a child that lives in a facility pursuant to section 282.19 or who have been placed in a facility or home by the district court, who requires special education and who is not enrolled in the educational program of the district of residence of the child but who receives an educational program from the district in which the facility or home is located, shall be paid by the district of residence of the child to the district in which the facility or home is located, and the costs shall include the cost of transportation **(282.31(2)"a")**.

A child shall not be denied special education programs and services because of a dispute over the determination of district of residence of the child. The director of the Department of Education shall determine the district of residence

when a dispute arises regarding the determination of the district of residence for a child who requires special education pursuant to this subsection **(282.31(2)"b")**.

The actual special education instructional costs, including transportation, for a child who requires special education shall be paid by the Department of Administrative Services to the school district in which the facility or home is located, only when a district of residence cannot be determined, and the child was not included in the weighted enrollment of any district pursuant to section 256B.9, and the payment pursuant to subsection 2, paragraph "a" was not made by any district. The district shall submit a proposed program and budget to the Department of Education by January 1 for the next succeeding school year. The district shall submit a claim by August 1 following the school year for the actual cost of the program. The total amount of the approved claim shall be paid by the Department of Administrative Services to the school district by October 1. The total amount paid by the Department of Administrative Services shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year. The portion of the total amount of the approved claims that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for the budget year in which the deduction is made **(282.31(3))**.

For purposes of funding juvenile home and foster care programs, district of residence means the school district in which the parent or legal guardian of the child resides or the district in which the district court is located if the district court is the guardian of the child **(282.31(4))**.

Programs may be provided during the summer and funded under section 282.31 if the school district or AEA determines a valid educational reason to do so **(282.31(5))**.

For eligible individuals placed by the district court, and for whom parental rights have been terminated by the district court, the school district in which the facility or home is located must provide special education. Costs shall be certified to the director of the Department of Education by August 1 of each year for the preceding fiscal year by the director of the AEA in which the pupil has been placed. Payment will be made from the general fund of the state (IAC **281--41.907(6)**).

A local school district may appeal a decision made pursuant to section 282.31 to the state board of education. The decision of the state board is final **(282.32)**.

### **Child Living in a Shelter Care Home or Juvenile Detention Home**

An AEA shall provide or make provision for an appropriate educational program for each child living in the following types of facilities located within its boundaries:

- 1) An approved or licensed shelter care home. A juvenile shelter care home means a physically unrestricting facility used only for the shelter care of children **(232.2(34))**.
- 2) An approved juvenile detention home. A juvenile detention home means a physically restricting facility used only for the detention of children **(232.2(32))**.

The AEA shall provide the educational program by any one of, but not limited to, the following:

- 1) Providing for the enrollment of the child in the district of residence of the child, subject to the approval of the district in which the child is living.
- 2) Cooperating with the district of residence of the child and obtaining the course of study and textbooks of the child for use in the special facility into which the child has been placed.
- 3) Providing for the enrollment of the child in the district in which the child is living, subject to the approval of the district in which the child is living.

An AEA shall not provide educational services to a facility unless the facility makes a request for educational services to the AEA by either of the following dates:

- 1) December 1 of the school year prior to the beginning of the school year for which the services are being requested.
- 2) Ninety (90) days prior to the beginning of the time for which the services are being requested **(282.30(1))**.

The AEA where the child is living, the school district of residence, the other appropriate AEA or agencies, and other appropriate agencies involved with the care or placement of the child shall cooperate with the school district where the child is living in sharing educational information, textbooks, curriculum, assignments, and materials in order to plan and to provide for the appropriate education of the child living in such facility **(282.30(2))**.

A child who lives in a facility [juvenile shelter care home or juvenile detention home] and who is not enrolled in the educational program of the district of residence of the child, shall receive appropriate educational services. The AEA shall submit a proposed program and budget to the Department of Education by January 1 for the next succeeding school year. The Department of Administrative Services shall pay the approved budget amount for an AEA in monthly installments beginning September 15 and ending June 15 of the next succeeding school year. The AEA shall submit an accounting for the actual cost of the program to the Department of Education by August 1 of the following school year. The approved accounting amount shall be compared with any amounts paid by the Department of Administrative Services to the AEA and any differences added to or subtracted from the October payment made for the next school year. Any amount paid by the Department of Administrative Services shall be deducted monthly from the state foundation aid paid under section 257.16 to all school districts in the state during the subsequent fiscal year. The portion of the total amount of the approved budget that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year in which the deduction is made **(282.31(1)"a")**.

If juvenile home students not requiring special education attend a local school district, other than the district of residence, tuition shall be calculated in the manner prescribed in Iowa Code section 282.24 for determining tuition costs for any nonresident student attending a local school district. In lieu of paying tuition to the local school district for these students, the AEA may request the local school district to account for these students through the foster care facility claim process **(IAC 281—63.16(2)(a))**.

Tuition for students provided a special education program pursuant to an IEP shall be paid by the district of residence, in accordance with the rules of special education and pursuant to Iowa Code chapter 282, to the district in which the juvenile home is located or to the AEA, whichever is providing the special education. The district in which the juvenile home is located or the AEA, whichever is providing the special education, shall notify the district of residence if the child was being served on official count date by the district in which the home is located or by the AEA. The district in which the juvenile home is located or the AEA, whichever is providing the special education, shall also notify the district of residence if the child was being served on the official special education headcount date by the district in which the home is located or by the AEA **(IAC 281—63.16(2)(b))**.

An AEA may appeal a decision made pursuant to section 282.31 to the state board of education. The decision of the state board is final **(282.32)**.

## **Student Fees**

It is the policy of the department of education that no Iowa student enrolled in a public school be excluded from participation in or denied the benefits of course offerings and related activities due to the student's or the student's parent's or guardian's financial inability to pay a fee associated with the class, program, or activity **(IAC 281—18.1)**.

The board of directors of a public school district shall adopt a policy regarding the charging and collecting of fees for course offerings and related activities, and for transportation provided to resident students who are not entitled to transportation under Iowa Code section 285.1. The policy established by the board of directors shall apply to any fees charged. The board shall require that procedures be developed to implement the policy pursuant to these rules **(IAC 281—18.2)**.

The policy required by rule 18.2 shall include provisions for granting a waiver, partial waiver, or temporary waiver of student fees upon application by the student. The policy shall include a provision stating that when an application for any fee waiver is granted, the fee or fees waived under the application are not collectable **(IAC 281—18.3)**.

Fines assessed for damage or loss to school property are not fees and need not be waived **(IAC 281--18.4)**.

Nothing in this chapter shall be construed to authorize the charging of a fee for which there is no authority in law **(IAC 281—18.4)**.

Iowa Code expressly authorizes the following fees:

- Textbooks **(301.1)**.
- School supplies **(301.1)**.
- Summer school programs **(282.6)**.
- Driver education programs **(282.6)**.
- Transportation fees for resident students who are not otherwise entitled to free transportation **(285.1(1))**.
- Eye protective devices **(280.10)**.
- Ear protective devices **(280.11)**.

- School meals **(283A)**.
- Nonresident student tuition **(282.1)**.
- Annual Evaluation fee for CPI students not dual enrolled **(298A.4(6))**.

The board of directors of each and every school district is authorized and empowered to contract for and buy books and any and all other necessary school supplies at contract prices, and to sell the same to the pupils of their respective districts at cost, loan such textbooks to such pupils free, or rent them to such pupils at such reasonable fee as the board shall fix, and the money so received shall be returned to the general fund **(301.1)**.

The board shall hold pupils responsible for any damage to, loss of, or failure to return any such books, and shall adopt such rules and regulations as may be reasonable and necessary for the keeping and preservation thereof. Any pupil shall be allowed to purchase any textbook used in the school at cost. No pupil already supplied with textbooks shall be supplied with others without charge until needed **(301.26)**.

Fees may be charged resident pupils to cover instructional costs for a summer school program or driver education program. The board of education may, in a hardship case, exempt a student from payment of the fees **(282.6)**.

Boards in their discretion may provide transportation for some or all resident pupils attending public school or pupils who attend nonpublic school who are not entitled to transportation. Boards in their discretion may collect from the parent or guardian of the pupil not more than the pro rata cost for such optional transportation **(285.1(1))**.

Boards in districts operating buses may transport nonresident pupils who attend public school, kindergarten through junior college, who are not entitled to free transportation provided they collect the pro rata cost of transportation from the parents **(285.1(11))**.

The board of directors of each local public school district shall provide the safety devices required for eye-protection. Such devices may be paid for from the general fund, but the board may require students and teachers to pay for the safety devices and shall make them available to students and teachers at no more than the actual cost to the district **(280.10)**.

The board of directors of each local public school district shall provide the safety devices required for ear-protection. Such devices may be paid for from the general fund, but the board may require students and teachers to pay for the safety devices and shall make them available to students and teachers at no more than the actual cost to the district **(280.11)**.

A school breakfast or lunch program means a program under which breakfasts or lunches are served by any public school on a nonprofit basis to children in attendance **(283A.1(4))**. School boards may use gifts, funds disbursed to them under the provisions of Chapter 283A, funds received from the sale of school breakfasts or lunches, and any other funds legally available for the purpose of operating a school breakfast or lunch program **(283A.2(1))**.

Nonresident children shall be charged the maximum tuition rate with the exception that those residing temporarily in a school corporation may attend school in the corporation upon terms prescribed by the board, and boards discontinuing grades under whole grade sharing shall be charged tuition as provided in section 282.24, subsection 2 **(282.1)**.

A board may require a fee for special work in music but not for regular courses established by the board **(OAG #27-6-21)**.

All facilities, supplies, and other items which are necessary or essential to instruction must be provided free of charge [except as expressly allowed by Code] in a tuition-free school which is required by law. A school district may purchase other supplies and distribute them to students, but they must be provided for free, rented for a reasonable fee, or sold at cost **(OAG #79-12-22)**.

Public schools may not charge fees for courses offered as part of their educational program [except as expressly allowed by Code] as such fees constitute tuition. Schools may not charge fees for extracurricular activities as no express or necessarily implied statutory authority exists for such fees **(OAG #81-8-29)**.

A school district may not assess fees for items which are necessary or essential to the instruction of a class unless such a fee is specifically authorized by the Code; however, a district may assess fees for school supplies which represent the cost of the item or a reasonable rental fee. The cost of items which are necessary or essential to the instruction of a class must be properly characterized as tuition rather than school supplies. Examples are art supplies for art classes and chemicals for science classes. In contract, pens and paper used by students to take notes would be properly characterized as school supplies **(OAG #93-7-3(L))**.

<b>QUICK REFERENCE TUITION CHART</b> <b>All tuition is per diem and per portion of day if less than full day.</b> <b>No other funding follows students unless authorized in Iowa Code.</b> <b>(1) Teacher Salary Supplement (TSS) is negotiated and follows only in Whole Grade Sharing (WGS).</b> <b>(2) Supplementary Weighting for concurrent enrollment courses (only) (CCSW) is counted by resident district and is paid to serving district as the current year's weighting times the current year's district cost per pupil of the resident district.</b> <b>(3) Limited English proficiency (LEP) weighting is counted by resident district and is paid to the serving district. If open enrolled out, it is the prior year's LEP weighting times the prior year's state cost per pupil. If not open enrolled out, it is the prior year's LEP weighting times the current year's district cost per pupil of the resident district.</b>				
TUITION TYPE	COST BASIS	FOLLOWS TUITION	DUE	CODE
Regular Education	Maximum fee chargeable is the district cost per pupil of the receiving district.	LEP, CCSW	Billed on or before February 15 and June 15.	282.20, 282.24, many OAGs
Special Education	Actual costs for this student's educational program pursuant to IEP in the current year.	LEP	Billed on or before February 15 and June 15.	282.20, 282.24, 256B
Regular Education, Whole grade sharing, one-way.	Minimum fee chargeable is ½ the district cost per pupil of the receiving district.	TSS, LEP, CCSW	Billed on or before February 15 and June 15.	282.20, 282.24, 282.12
Regular Education, Whole grade sharing, two-way.	Method for determination of costs shall be established by mutual agreement of boards, but may not exceed the district cost per pupil of the receiving district.	TSS, LEP, CCSW	Billed on or before February 15 and June 15.	282.20, 282.24, 282.12
Special Education in same grades where regular education is Whole grade shared, one-way and two-way.	Special Education is a separate contract not part of the WGS agreement. Actual costs for this student's educational program pursuant to IEP in the current year. (Same method as those not whole grade shared.)	LEP	Billed on or before February 15 and June 15.	282.20, 282.24, 282.12, 256B
Regular Education, from or to adjoining state under a written contract.	As negotiated by boards but not less than the lower average cost per pupil of the two districts for the prior year. Generally average costs = total general fund expenditures / ADM.	None.	Billed on or before February 15 and June 15.	282.20, 282.8, 282.7(3)
Special Education, Placed out-of-state.	Actual costs for this student's educational program pursuant to IEP in the current year. Does not include custodial costs.	None.	Billed on or before February 15 and June 15.	282.20, 282.24, 256B
Regular Education, Placed out-of-state by any entity other than resident district.	None.	None.	None.	232.159



Regular Education, Parental Placement other than a PMIC.	None.	None.	Parent pays.	
Regular Education, Open Enrollment, Full time pupil.	State cost per pupil for the prior year.	LEP, CCSW	Sending district shall pay quarterly; however a split quarter is prorated on a per diem basis.	282.18
Regular Education, Open Enrollment, dual enrolled K-8 grade student, or dual enrolled for extracurricular activities and is 9-12 grade student.	Amount equal to 0.1 times the state cost per pupil for the prior year.	LEP	Sending district shall pay quarterly; however a split quarter is prorated on a per diem basis.	282.18, 257.6(1)"a"(6)
Regular Education, Open Enrollment, 9-12 grade student, dual enrolled for academic classes.	No tuition paid. The receiving district counts these students on an FTE basis and does not bill for tuition.	None paid. The receiving district counts these students and does not bill for tuition.	None.	282.18, 257.6(1)"a"(3)
Regular Education, Open Enrollment, home school assistance program pupil.	Amount equal to 0.3 times the state cost per pupil for the prior year.	LEP	Sending district shall pay quarterly; however a split quarter is prorated on a per diem basis.	282.18, 257.6(1)"a"(5)
Special Education, Open Enrollment.	Actual costs for this student's educational program pursuant to IEP in the current year.	LEP	Sending district shall pay quarterly.	282.20, 282.24, 256B
Special Education, attending accredited nonpublic school located within the district.	Actual costs for this student's educational program pursuant to IEP in the current year provided by the school district in which the nonpublic school is located. No general education percentage may be billed to the resident district. [If special education is provided in the public schools, the district in which the nonpublic school is located counts student for nonpublic shared-time.]	None.	Billed on or before February 15 and June 15.	282.20, 282.24, 257.6(1)"a"(3), 256B
Postsecondary Enrollment Options Act (PSEO).	Lower of \$250 per student per course or the actual and customary costs of tuition, textbooks, materials, and fees directly related to the course. If the student does not complete the course, then none is paid.	None.	Postsecondary institutions shall bill by May 1; district shall pay by June 30.	261E.6
Community College, contract, not PSEO.	As determined by board of the Community College with the consent of the local school board.	None.	As determined by boards.	260C.14(2)

College or University, Advanced Academic Coursework, not PSEO and not Community College.	None.	None.	Paid by student's parents or guardians.	282.26
Child Living in Psychiatric Hospital or Psychiatric Medical Institute for Children (PMIC), Not operated by the state.	District cost per pupil of the <u>resident</u> district. State hospitals and state PMICs cannot bill districts or AEAs.	None.	Billed on or before February 15 and June 15.	282.20, 282.24, 282.27
Child Living in a Mental Health Institute (MHI).	None.	None.	None.	282.33
Special Education, Child Enrolled in Iowa School for the Deaf or Iowa Braille and Sightsaving School AND the resident district is providing for that child an interpreter, an aide, or assistive technology.	Actual cost to provide the interpreter, aide, or assistive technology for that student. No other costs can be billed. No general education percentage can be billed. Billed to resident district by AEA in which the state institution is located.	None.	Billed on or before February 15 and June 15.	
Special Education, Child Living in an Iowa prison or correctional facility.	Actual cost to provide the special education instruction pursuant to IEP. No other costs can be billed. No general education percentage can be billed.	None.	Billed on or before February 15 and June 15.	282.20, 282.24, 256B
Regular Education, Child Living in an Iowa prison or correctional facility.	None.	None.	None.	
Regular Education, Child Living in Foster Care or other Residential Facility located in the district; Child was not resident of the district prior to entering facility care.	Receiving district files claim with DE if aggregate days of service to all such pupils exceeds the number of such pupils present and counted on count date times 180 days. Does <u>not</u> bill resident district.	None. Counted by receiving district.	Receiving district shall file claim by August 1.	282.31(1)"b", 282.19, 282.20, 282.24
Special Education, Child Living in Foster Care or other Residential Facility located in the district; Child was not resident of the district prior to entering facility care. District of residence can be determined or has been determined by director of DE.	Actual costs for this student's educational program pursuant to IEP in the current year served by district in which facility is located. Billed to resident district.	LEP	Billed on or before February 15 and June 15.	282.20, 282.24, 282.31(2), 282.19, 256B

Special Education, Child Living in Foster Care or other Residential Facility located in the district; District of residence cannot be determined and no district receives weighting for this child by counting this child on prior year's special education weighting count.	Receiving district files claim with DE for the actual costs for this student's educational program pursuant to IEP in the current year served by district in which facility is located. Does not include custodial costs. Does <u>not</u> bill any other district.	None.	Receiving district shall file claim by August 1.	282.29, 282.31(3), 282.19, 256B
Special Education, Child Placed by District Court, (Parental rights terminated) and no district receives weighing for this child by counting this child on prior year's special education weighting count.	Receiving district files claim with DE for the actual costs for this student's educational program pursuant to IEP in the current year served by district in which the child was placed. Does not include custodial costs. Does <u>not</u> bill any other district.	None.	Receiving district shall file claim by August 1.	282.29, 282.31(3), 256B
District has a written contract with residential facility located within the district to provide educational services for students residing in the residential facility, not operated by the state, or with a Partner located within the district to provide educational services to students enrolled in a Statewide Voluntary 4-year-old Preschool Program at the Partner's location.	Receiving district counts students for certified enrollment.	None.	As negotiated in the written contract.	282.31; 256C